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10/713,770	11/14/2003	Manabu Kusano	9333/363	8765

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EXAMINER
BARQADLE, YASIN M

ART UNIT	PAPER NUMBER
2153	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/713,770	KUSANO ET AL.
	Examiner	Art Unit	
	Yasin M. Barqadle	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 June 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Amendment

Applicant's arguments filed on June 15, 2007 have been

considered but are not deemed persuasive.

- Claims 1-24 are presented for examination

Response to Amendment

Applicant argues "Because Rosenberg fails to teach a list

presenting unit operable to present a list of contents available

to be transmitted to a second client apparatus based on data

registered by a data registering unit, and a server data

transmitting/receiving unit operable to transmit data to the

second client apparatus in response to a selection of

desired contents of the list of contents available to be

transmitted to the second client apparatus, Rosenberg

necessarily does not anticipate independent claim 1, or

any claim that depends on claim 1."

Examiner respectfully disagrees. Rosenberg teaches a list

presenting unit operable to present a list of contents available

be transmitted to a second client apparatus based on data

registered by the data registering unit (a playlist (fig.4)

according to profile of user 110 at device 202 or 299 is

presented); and a server data transmitting/receiving unit

operable to transmit data to said second client apparatus (col.

8, lines 49-53), in response to a selection of desired contents

of the list of contents available to be transmitted to the

second client apparatus (col. 20, lines 16-42; fig. 15 and Col.

21, lines 17-48) (col. 20, lines 16-42; fig. 15 and Col. 21,

lines 17-48).   Furthermore, Rosenberg teaches, "where device 202

transmits a listen request message to a server 280. The listen

request message includes an identifier that identifies the audio

channel to which user 110 has selected to listen. Next, a

connection is established between device 202 and server 280 so

that server 280 can stream audio data (e.g., sound recordings)

to device 202 for playback to user 110 (step 2804)" (col. 19,

31-54). See also col. 20, lines 16-42 and fig. 15 where user 110

can create/modify profile form presented to a user interface on

page 1500 to select one or more genres of music. Hence,

Rosenberg clearly teaches the argued limitation.

In response to applicant's argument that "Because combining

Rosenberg and Dodrill as contemplated by the Examiner would alter

the principle operation of Rosenberg, it is improper to combine

Rosenberg and Dodrill", the test for obviousness is not whether

the features of a secondary reference may be bodily incorporated

into the structure of the primary reference; nor is it that the

claimed invention must be expressly suggested in any one or all

of the references. Rather, the test is what the combined

teachings of the references would have suggested to those of

ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981). In this case both Rosenberg and Dodrill are

directed to the same endeavor of invention and suggestion and

motivation·to combine is presented as shown in the office action

below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for
> patent by another filed in the United States before the invention thereof
> by the applicant for patent, or on an international application by another
> who has fulfilled the requirements of paragraphs (1), (2), and (4) of
> section 371(c) of this title before the invention thereof by the applicant
> for patent.

The changes made to 35 U.S.C. 102(e) by the American

Inventors Protection Act of 1999 (AIPA) and the Intellectual

Property and High Technology Technical Amendments Act of 2002 do

not apply when the reference is a U.S. patent resulting directly

or indirectly from an international application filed before

November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the

amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3, 5-14, 16-17 and 19-24 are rejected under 35

U.S.C. 102(e) as being anticipated by Rosenberg et al US Patent

Number 7028082, hereinafter "Rosenberg"

As per claims 1,13 and 17, Rosenberg teaches a multimedia

reproducing system (Fig. 2) comprising:

a first client apparatus (202, fig. 2) including an

uploading unit operable to transmit data from a desired medium

to a server apparatus (218, fig. 2), the server apparatus

including a data registering unit operable to register data

transmitted from said first client apparatus by said uploading

unit to a user record area prepared in advance for individual

users (user profile 219 are stored in server 218); a list

presenting unit operable to present a list of contents available

be transmitted to a second client apparatus based on data

registered by the data registering unit (a playlist (fig.4)

according to profile of user 110 at device 202 or 299 is

presented); and a server data transmitting/receiving unit

operable to transmit data to said second client apparatus (col.

8, lines 49-53), in response to a selection of desired contents

of the list of contents available to be transmitted to the

second client apparatus (col. 20, lines 16-42; fig. 15 and Col.

21, lines 17-48); wherein the second client apparatus comprises

a selecting unit operable to select the desired content from the

list presented by the list presenting unit (user 110 selects

desired content col. 2, lines 53-65) and a reproducing unit

(processing unit 212) operable to receive the data transmitted

from the server data transmitting/receiving unit and reproduce

the data through decoding (decoder 222, fig. 2) that corresponds

to a media type (col. 10, lines 1-18 and fig. 26).

As per claims 2 and 14, Rosenberg teaches a multimedia

reproducing system of claim 1, wherein the reproducing unit

includes a plurality of decoders corresponding to a media type

and is operable to select a decoder that corresponds to the

desired medium (consumer device 202 includes one or more

receivers 210 that are operable to tune to a particular

broadcast audio or audio/video channel which implies plurality

of decoding system col. 5, lines 9-33).

As per claim 3, Rosenberg teaches multimedia reproducing system

of claim 1, wherein the reproducing unit includes a decoder and

memory operable to store a plurality of decoding programs that

correspond to a media type and is operable to select a decoding

program that corresponds to the desired medium (col. 5, lines 9-

41).

As per claim 5, Rosenberg teaches multimedia reproducing system

of claim 1, wherein the first client apparatus includes a

function selecting unit operable to select an operation mode

relating to a reproduction quality, equalization, or notifying

the server apparatus of selection content (see fig. 16 and 17);

and the server apparatus includes an operation screen generating

unit operable to generate an operation screen presented on said

second client apparatus based on the content of the function

selected by said function selecting unit, and transmit the

screen to the second client apparatus (col.12, lines 15-43).

As per claims 6,16,19 and 23, Rosenberg teaches the multimedia

reproducing system, wherein the second client apparatus includes

a function selecting unit operable to select an operation mode

relating to a reproduction quality, equalization, or notifying the server apparatus of selection content (see fig. 16 and 17); and the server apparatus includes an operation screen generating unit operable to generate an operation screen presented on said second client apparatus based on the content of the function selected by said function selecting unit, and transmit the screen to the second client apparatus (col.12, lines 15-43).

As per claim 7, Rosenberg teaches multimedia reproducing system of claim 1, wherein the list presenting unit provides the second client apparatus with a list of contents prepared by the server apparatus (col.12, lines 15-43); and the server apparatus includes a charging unit operable to conduct purchase processing of selected content (see fig. 8, purchase button).

As per claim 8, Rosenberg teaches multimedia reproducing system of claim 7, wherein the data registering unit registers data relates to selected content in the user record area (In one embodiment, after user 110 selects purchase-button 804, device 202 communicates with a remote server to verify that the user is qualified to make the purchase (e.g., does the user have enough money is his or her account) (step 914). This implies user is registered with the system.

As per claim 9, Rosenberg teaches multimedia reproducing system

of claim 1, further comprising: a last position storing unit

operable to store last position information indicating the last

reproduction position by said reproducing unit; and a last

position managing unit operable to manage reading and writing of

the last position information to and from the last position

storing unit; wherein the data relates to content selected by

said second client apparatus is reproduced from a position

corresponding to the last position information stored in the

last position storing unit (col. 19, lines 1-21 and col. 17,

lines 22-49).

As per claim 10, Rosenberg teaches multimedia reproducing system

of claim 9, wherein the server data transmitting/receiving unit

obtains data corresponding to content selected on the second

client apparatus starting from the position corresponding to the

last position information stored in the last position storing

unit, and transmits the data to the second client apparatus

(col. 19, lines 1-21 and col. 17, lines 22-49).

As per claim 11, Rosenberg teaches multimedia reproducing system

of claim 10, further comprising a last position managing unit in

said second client apparatus, and is operable to transmit the

last position information to the server apparatus (col. 19,

lines 1-21 and col. 17, lines 22-49).

As per claim 12 Rosenberg teaches multimedia reproducing system

of claim 10, wherein the last position managing unit and the

last position storing unit are provided in the server apparatus,

and the last position information is stored in the server

apparatus (col. 17, lines 22-49).

As per claim 20, Rosenberg teaches the server apparatus of claim

17, wherein the list presenting unit provides a list of contents

prepared by the server apparatus, and the server apparatus

further comprises a charging unit operable to conduct purchase

processing of a selected content when said client apparatus

selects the content prepared by said server apparatus (col. 9,

lines 42-56 and col.12, lines 15-43).

As per claim 21, Rosenberg teaches the server apparatus of claim

20, wherein data corresponding to selected content is registered

to said user record area when the content is selected on the

client apparatus "In one embodiment, after user 110 selects

purchase-button 804, device 202 communicates with a remote

server to verify that the user is qualified to make the purchase

(e.g., does the user have enough money is his or her account)

(step 914)" (col. 42-56). This implies user is registered with

the system.

As per claim 22, Rosenberg teaches a multimedia reproducing

method (fig. 2), comprising the acts of:

    providing a server   (server 280);

    providing a user record area on the server (col. 14, lines

19-31); providing a client apparatus operable to connect with

the server apparatus through a network (202); selecting content

through the second client apparatus (col. 9, lines 42-56 and

col.12, lines 15-43); registering data from a desired medium to

the user record area on the server apparatus (col. 4, lines 49-

67 and col. 42-56); selecting a decoder used to reproduce the

content on the client apparatus based on the desired medium

(decoder 222; fig. 22 and 23 and col. 5, lines 9-41).

); and decoding data transmitted from the server to the second

client apparatus (decoder 222, fig. 2 and col. 10, lines 1-18

and fig. 26).

As per claim 23, Rosenberg teaches the multimedia reproducing

method of claim 22 further comprising the act of selecting an

operating mode relating to reproduction quality or equalization

(see fig. 16 and 17).

As per claim 24, Rosenberg teaches the multimedia reproducing

method of claim 22 wherein the server apparatus generates an

operation screen presented on said second client apparatus based

on the content of the selected function and transmits the screen

to said second client apparatus (col. 9, lines 42-56 and col.12,

lines 15-43).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

Claim 4,15 and 18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over by Rosenberg et al US Patent Number 7028082,

hereinafter "Rosenberg" in view of Dodrill et al USPN. 6643621,

(hereinafter "Dodrill").

As per claims 4 and 18, although Rosenberg shows substantial features of the claimed invention, he does not explicitly show converting data content into a predetermined format Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Rosenberg, as evidenced by Dodrill USPN. (6643621).
In analogous art, whose invention is a method for referencing and producing audio information, discloses, "conversion operation specifies an audio output format that is compatible with the type of audio data that is compatible with the originator of the request for information [Col. 7, lines 32-35 and col. 15, lines 28-38]. Giving the teaching of Dodrill, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Rosenberg by employing the system of Dodrill so that the appropriate format that is compatible to each is user's multimedia output system.

Dodrill further teaches wherein the server data transmitting/receiving unit transmits the data corresponding to content in the predetermined format to the client apparatus [abstract, Col. 7, lines 32-35 and col. 15, lines 28-38].

As per claim 15, Dodrill as modified teaches wherein the reproducing unit is provided with a decoder that corresponds to a predetermined format and decodes data converted into the predetermined format [Col. 7, lines 32-35 and col. 15, lines 28-38].

Conclusion

1.   **ACTION IS MADE FINAL**.   See MPEP § 706.07(a).   Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action.   In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will· expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action.   In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained form the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

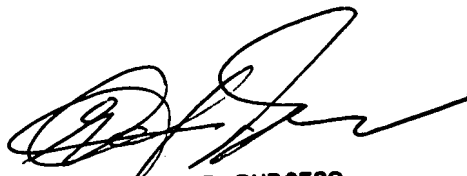Art Unit 2153

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9/4/07